

10-R-0494

(Do Not Write Above This Line)

A RESOLUTION BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO SETTLE THE CASE STYLED "CITY OF COLLEGE PARK AND CHARLES E. PHILLIPS, SR., PLAINTIFFS, V. CITY OF ATLANTA AND SHIRLEY FRANKLIN, IN HER OFFICIAL CAPACITY AS MAYOR OF THE CITY OF ATLANTA, DEFENDANTS; IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA, ATLANTA DIVISION; CIVIL ACTION FILE NO. 1:08-CV-1464"; AND FOR OTHER PURPOSES.

APPROVED BY:

ADOPTED BY

JERRY L. DELOACH
Deputy City Attorney

MAR 15 2010

COUNCIL

AS AMENDED

- ☐ CONSENT REFER
☐ REGULAR REPORT REFER
☐ ADVERTISE & REFER
☐ 1st ADOPT 2nd READ & REFER
☐ PERSONAL PAPER REFER

Date Referred

Referred To:

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee _____
Date _____
Chair _____
Referred To _____

PSLA Committee

3/9/10 Date

Chair

Action

Fav, Adv, Hold (see rev. side)

Other

Members

Refer To

Committee

Date

Chair

Action

Fav, Adv, Hold (see rev. side)

Other

Members

Refer To

Committee

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Chair

Action

Fav, Adv, Hold (see rev. side)

FINAL COUNCIL ACTION
☐ 2nd ☐ 1st & 2nd ☐ 3rd
Readings
☐ Consent ☐ V Vote ☒ RC Vote

CERTIFIED

MAR 15 2010

MAYOR'S ACTION

**AN AMENDED RESOLUTION
BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE**

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO SETTLE THE CASE STYLED "CITY OF COLLEGE PARK AND CHARLES E. PHILLIPS, SR., PLAINTIFFS, V. CITY OF ATLANTA AND SHIRLEY FRANKLIN, IN HER OFFICIAL CAPACITY AS MAYOR OF THE CITY OF ATLANTA, DEFENDANTS"; IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA, ATLANTA DIVISION; CIVIL ACTION FILE NO. 1: 08-CV-1464"; AND FOR OTHER PURPOSES.

WHEREAS, on April 18, 2008, College Park ("College Park") and Charles Phillips (collectively, "Plaintiffs") filed a lawsuit ("Lawsuit") against the City of Atlanta ("Atlanta") and former Mayor Franklin (collectively, "Defendants") styled: "City Of College Park and Charles E. Phillips, Sr., Plaintiffs, v. City Of Atlanta and Shirley Franklin, in her official capacity as Mayor Of the City of Atlanta, Defendants"; In the United States District Court for the Northern District of Georgia, Atlanta Division; Civil Action File No. 1: 08-CV-1464"; and

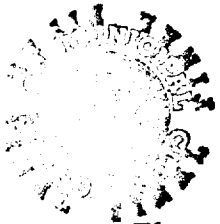
WHEREAS, Plaintiffs alleged in the Lawsuit that, over the last 45 years, Atlanta's acquisition of properties in College Park upon which voters resided, the relocation of such voters and Atlanta's demolition of structures on such properties were void because Atlanta failed to pre-clear such acquisitions under the Federal Voting Rights Act of 1965; and

WHEREAS, Plaintiffs' impetus for filing the Lawsuit appears to have been Atlanta's acquisition of the Wynterbrook Apartments on April 18, 2008; and

WHEREAS, after Plaintiffs filed the Lawsuit, the Court issued an injunction preventing Atlanta from demolishing Wynterbrook Apartments or acquiring any additional properties in College Park; and

WHEREAS, on March 31, 2009, the Court issued an Order and Opinion and Judgment in the Lawsuit, finding in favor of Defendants, dismissing the Lawsuit and dissolving the previously issued injunction; and

WHEREAS, Plaintiffs subsequently appealed the Court's Judgment in Defendant's favor to the United States Court of Appeals for the Eleventh Circuit, which appeal is still pending; and



WHEREAS, the parties were ordered to mediate their disputes by the Eleventh Circuit Court of Appeals and, over the last several months, have reached an agreement to settle the case and resolve two related Georgia State Court lawsuits by executing of a Consent Order under which Plaintiffs would forego any further prosecution of the Lawsuit, dismiss the related Georgia State Court lawsuits and allow for the prompt demolition of the Wynterbrook Apartments; and

WHEREAS, in consideration of Plaintiffs' dismissal of the Lawsuit and the related Georgia State Court lawsuits and the issuance by College Park of appropriate permits for Atlanta to demolish the Wynterbrook Apartments, the Consent Order will require Atlanta, through its Department of Aviation ("DOA"), to:

1. allow one College Park representative to attend DOA planning meetings;
2. provide College Park with additional advanced notice of proposed actions by the DOA that might materially affect the interests of College Park;
3. modify its current Airport Noise Compatibility Program to exclude Atlanta's potential acquisition of certain apartment complexes in College Park, except the Clubhouse Apartments;
4. consult with College Park in making determinations as to which College Park properties will receive noise mitigation;
5. discuss the possibility of payments in lieu of taxes by the DOA when it acquires College Park property that, in the hands of Atlanta, would be exempt from ad valorem taxes (subject to further legislative approval by the City of Atlanta's Council); and
6. allow College Park an option to purchase (subject to the further legislative approval by the City of Atlanta's Council) the Wynterbrook Apartments site at its fair market value, as determined by an appraisal process detailed in the Consent Order.

WHEREAS, the City Attorney, after consulting with the Aviation General Manager, has determined that it is desirable and in Atlanta's best interest to settle this case as described in this resolution.

NOW, THEREFORE, BE IT RESOLVED, by the Council of Atlanta that the City Attorney or other appropriate representative of the City's Law Department are each authorized to execute the Consent Order, on the terms and conditions contained in this resolution, and any other necessary documents and/or pleadings required to settle the Lawsuit.

BE IT FURTHER RESOLVED, that the Consent Order and any other necessary documents and/or pleadings required to settle the Lawsuit will not be effective until each has been executed by the City Attorney or other appropriate representative of the City's Law Department and delivered to Plaintiffs.

A true copy,

Khonda Daughin Johnson
Municipal Clerk

ADOPTED as amended by the Council
APPROVED by Mayor Kasim Reed

MAR 15, 2010
MAR 23, 2010

RCS# 124
3/15/10
2:18 PM

Atlanta City Council

REGULAR SESSION

CONSENT I

ADOPT

YEAS: 13
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 1
EXCUSED: 0
ABSENT 2

Y Smith	Y Archibong	Y Moore	Y Bond
B Hall	Y Wan	Y Martin	Y Watson
Y Young	Y Shook	Y Bottoms	Y Willis
Y Winslow	Y Adrean	B Sheperd	NV Mitchell

CONSENT I